

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ROYLANDO SANTIAGO,**  
**Petitioner,**

**v.**

**COMMONWEALTH OF  
PENNSYLVANIA, *et al.*,**  
**Respondents.**

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**Civ. No. 21-1416**

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**ORDER**

Magistrate Judge Lynn Sitarski has issued a Report and Recommendation advising that I deny pro se state prisoner Roylando Santiago's Petition for a Writ of Habeas Corpus, in which he seeks relief under the First Amendment, Fourteenth Amendment, "abatement clause," and "exculpatory clause." (Doc. No. 6); 28 U.S.C. § 2241. Santiago has not objected to Judge Sitarski's R&R, and so I "need only satisfy [myself] that there is no clear error on the face of the record in order to accept the recommendation." See Fed. R. Civ. P. 72(b) advisory committee's note to the 1983 amendment; see also Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).

After carefully reviewing Judge Sitarski's opinion, I conclude that her analysis is plainly correct. Santiago has not yet stood trial due to ongoing competency issues, and the state courts have not yet addressed his March 25, 2021 Pennsylvania Criminal Rule 600 motion (upon which he bases some of his current claims). He has thus not met the § 2241 exhaustion requirement. See Lines v. Larkins, 208 F.3d 153, 159 (3d Cir. 2000) ("All claims that a petitioner in state custody attempts to present to a federal court for habeas corpus review must have been fairly presented to each level of the state courts."). There are no "extraordinary circumstances" presented here that would excuse Santiago from meeting this requirement. See Moore v. DeYoung, 515 F.2d 437, 443 (3d Cir. 1975). I will accordingly dismiss his Petition without prejudice, to provide the state

courts with a “full and fair opportunity to resolve federal constitutional claims before those claims are presented to the federal courts.” O’Sullivan v. Boerckel, 526 U.S. 838, 845 (1999).

**AND NOW**, this 1st day of June, 2021, upon consideration of the Petition for a Writ of Habeas Corpus (Doc. No. 2) and the Report and Recommendation (Doc. No. 6), to which no objection has been filed, it is hereby **ORDERED** that:

1. The Report and Recommendation (Doc. No. 6) is **APPROVED** and **ADOPTED**;
2. The Petition for a Writ of Habeas Corpus is **DENIED without prejudice**;
3. There are no grounds to issue a certificate of appealability; and
4. The Clerk of Court shall mark this case **CLOSED** for statistical purposes.

**AND IT IS SO ORDERED.**

*/s/ Paul S. Diamond*

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**PAUL S. DIAMOND, J.**